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EXAMINER
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BONSHOCK, DENNIS G

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/815,439  
Filing Date: March 22, 2001  
Appellant(s): BENNETT, STEVEN M.

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Sharmini N. Green (Registration No. 41,410)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10-24-2005 appealing from the Office action mailed 5-25-2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable by Herz (USPN: 6,460,036) in view of John I. Kiger, THE DEPTH/BREADTH TRADE-OFF IN THE DESIGN OF MENU-DRIVEN USER INTERFACES, hereinafter Kiger.

As per claim 1 (method) and 24 (article including readable instruction), Herz discloses a method of presenting catered information to the user as the technique of present list to user (see block 1104 IN Fig. 10), the method comprising:

Identifying in a graphical user interface an item to be presented to the user is taught by Herz as the technique of an on-line news interface features (see col. 62, lines 43-44 and see Fig. 10 for delivers article to user);

Automatically retrieving sub-items from a storage medium, the sub-items selected dynamically based on at least one predetermined factor are taught by Herz as the techniques of **target objects are stored at one or more locations in a data communication network on data storage media** associated with a computer system.

The computed similarity measurement server which function **to enable human users to locate desired target objects** using a large computer system (see col. 8, lines 58-64) where it automatically selecting **article of interest to a user** (see col. 79, lines 46-47); these target objects retrieved based one of several means of grouping strategies including: organized so that users can actively navigate among groups of articles by moving from one group to a larger, more general group (depth related), to a smaller, more specific group (depth related), or to a closely related group (breadth related) in the hierarchy (see column 7, lines 27-48 and figure 7).

Building an interface within the graphical user interface from the sub-items, presenting the interface to the user, and recording user interface activity in storage medium are taught by Herz as the techniques of automatically create a "customized newspaper" interface features (see col. 62, lines 40-47), presentation of new articles and corresponding advertisements which are of highest interest to the user (see col. 62, lines 55-56), and pieces of information are termed attributes collectively to form a profile of the target objects or a target profile. For example, where the system for customized electronic identification of desirable objects is activated to identify selection of interest, a particular category of on-line products for review or purchase by the user, it can be appreciated that there are certain unique sets of attributes which are pertinent to the particular product category of choice (see col. 9 line 65 to col. 10 line 6).

Herz, however, does not disclose the limitation of sub-items representing at least one of a depth information and a breadth information relating to the item.

Kiger discloses the limitation of sub-items representing at least one of a depth information and a breadth information relating to the item as the technique of paper reports the results of an experiment investigating human performance and preference trade-offs that accompany systematic manipulation of the breadth and depth of tree structures in a menu-driven information retrieval system (see page 201, introduction, lines 3-6 and see Figs. 2-6 and 4-3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Kiger teaching of breadth and depth information of hierarchical tree structure in a menu-driven graphical user interface into that of Herz invention. By doing so, the system would be enhanced by providing an intuitive tool of visually and graphically captured information in a graphical based tree structure user interface to its end user, thus the system would providing an intuitive tool to an end user.

As per claim 2, the limitation of wherein the storage medium further comprises one of a database or an in-memory data structure is taught by Herz as the technique of mass storage (see Fig. 1). This claim is therefore rejected for the reason as set forth above.

As per claim 3, Herz discloses the limitation wherein the at least one predetermined factor includes user preferences, user history, user queries, user interface activity and contextual information as the techniques of presentation of new

articles and corresponding advertisements which are of highest interest to the user (see col. 62, lines 55-56), each user's target profile interest summary is automatically updated on a continuing basis to reflect the user's changing interest (see col. 6, lines 60-62), to enable users to locate desired target objects (see col. 8, lines 62-63), overall frequency of use (see abstract) and Network Context of the Browsing System (see col. 72, line 9).

This claim is therefore rejected for the reasons as set forth above.

As per claims 4 (method) and 25 (article including readable instruction), Herz disclose the limitations of determining if the user interface activity should change the presentation of the interface of future information requests from the user, and if the user interface activity should change the interface for the future information requests from the user, adding information correlating to the user interface activity to the storage medium as one of a user specific item automatically constructs a target profile for each target object (see col. 5, lines 9-10) and target profile interest summary is automatically updated on a continuing basic to reflect the user's changing interests (see col. 6, lines 60-62) and Monitor activity and adjust profile (see Fig. 5). These claims are therefore rejected for the reasons as set forth above.

As per claim 5 (method) and 26 (article including readable instruction), Herz discloses the limitation of removing items added as a result of the user interface activity as the technique of the system for customized electronic identification of desirable objects uses a fundamental methodology for accuracy and efficiency matching users

and target objects by automatically calculating, using and updating profile information (see col. 6, lines 3-7). These claims are therefore rejected for the reasons as set forth above.

As per claims 6 (method) and 27 (article including readable instruction), due to the similarity of these claim to that of claims 5 and 26, respectively, these claims are therefore rejected for the same reason applied to claims 5 and 26.

5. Claims 7, 9-20, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (USPN: 6,460,036) in view of John I. Kiger, THE DEPTH/BREADTH TRADE-OFF IN THE DESIGN OF MENU-DRIVEN USER INTERFACES, hereinafter Kiger and further in view of Bodnar et al. (USPN: 6,310,634) hereinafter Bodnar.

As per claims 9 (method) and 30 (article including readable instruction), Herz-Kiger disclose the invention substantially as claimed above. Herz-Kiger, however, do not disclose the limitation of removing the items added as a result of the user interface activity occurs when the item is deemed uninteresting.

Bodnar discloses the limitation of removing the items added as a result of the user interface activity occurs when the item is deemed uninteresting as the technique of with the option to change or remove an existing item (see col. 20, lines 47-48).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of removing the items added as a result of the user interface activity occurs when the item is deemed uninteresting into that of



Herz-Kiger combined invention. By doing so, the system would be enhanced by allowing user capable of removing an item deems uninteresting to end user, thus the system would providing an intuitive tool to an end user.

As per claims 7 (method) and 28 (article including readable instruction), due to the similarity of these claims to that of claims 9 (method) and 30 (article including readable instruction), these claims are therefore rejected for the same reason applied to claims 9 and 30.

As per claim 10, Herz-Kiger discloses the invention substantially as claimed above. Herz-Kiger, however, do not disclose the limitation of wherein the sub-items include default sub-items for the item to be presented to the user.

Bodnar discloses the limitation of wherein the sub-items include default sub-items for the item to be presented to the user as the technique of Initialize page and control On/Off states to default values (see Fig. 27A).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of wherein the sub-items include default sub-items for the item to be presented to the user into that of Herz-Kiger combined invention. By doing so, the system would be enhanced by allowing user to initiate and to define default values for sub-items in order to be outputted to an end user.

As per claim 11, Herz-Kiger disclose the invention substantially as claimed above. Herz-Kiger, however, do not disclose the limitation of wherein the sub-items include user specific sub-items derived from previous user interface activity.

Bodnar discloses the limitation of wherein the sub-items include user specific sub-items derived from previous user interface activity as the technique of Departure Time and Arrival Time of Trip to Hawaii (see Figs. 19D-19H).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of wherein the sub-items include user specific sub-items derived from previous user interface activity into that of Herz-Kiger combined invention. By doing so, the system would be enhanced by allowing user to specify sub-items to be edited.

As per claim 12, Herz-Kiger disclose the invention substantially as claimed above. Herz-Kiger, however, do not disclose the limitation of wherein the sub-items include item specific sub-items derived from previous user interface activity.

Bodnar discloses the limitation of wherein the sub-items include item specific sub-items derived from previous user interface activity as the technique of Departure Time and Arrival Time of Trip to Hawaii (see Figs. 19D-19H) for Specific Meeting with John Doe (see Fig. 18D).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of wherein the sub-items include item specific sub-items derived from previous user interface activity into that of Herz-Kiger combined invention. By doing so, the system would be enhanced by allowing user to specify item specific sub-items to be edited.

As per claim 13, Herz-Kiger discloses the invention substantially as claimed above. Herz-Kiger, however, do not disclose the limitation of wherein the sub-items include item type specific sub-items derived from previous user interface activity.

Bodnar discloses the limitation of wherein the sub-items include item type specific sub-items derived from previous user interface activity as the technique of Departure Time and Arrival Time of Trip to Hawaii (see Figs. 19D-19H) for Specific Meeting with John Doe (see Fig. 18D) of the type of Schedule Meeting (see Fig. 15 C).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of wherein the sub-items include item type specific sub-items derived from previous user interface activity into that of Herz-Kiger combined invention. By doing so, the system would be enhanced by allowing user to specify item type specific sub-items to be edited.

As per claim 14, Herz-Kiger disclose the invention substantially as claimed above. Herz-Kiger, however, do not disclose the limitation of wherein presenting output to the user is accomplished using one of the group comprising of: a personal computer, a personal digital assistant, a phone, a pager, and a network appliance.

Bodnar discloses the limitation of wherein presenting output to the user is accomplished using a personal digital assistant as the technique of focus is on the environment of the interface in a portable computing device such as a PDA (personal digital assistant) (see col. 13, lines 55-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of presenting output to the user is accomplished using a personal digital assistant into that of Herz-Kiger combined invention. By doing so, the system would be enhanced by allowing portable personal digital assistant to supply information to its end user.

As per claim 15, due to the mostly similarity of this claim to that of claim 1, for the limitation of an extraction agent operable to monitor, dynamically select and fetch information relating to an item from the repository based on user request and at least one predetermined factor and a prioritization agent operable to determine a priority of presentation of the information. Herz also discloses the limitation of determine a priority of presentation of the information as the technique of presentation of new article and corresponding advertisements which are of highest interest to the user (see col. 62, lines 55-56) and a high priority message (see col. 63, line 10). This fetched information retrieved based one of several means of grouping strategies including: organized so that users can actively navigate among groups of articles by moving from one group to a larger, more general group (depth related), to a smaller, more specific group (depth related), or to a closely related group (breadth related) in the hierarchy (see column 7, lines 27-48 and figure 7).

Herz, however, does not disclose the limitation of an extraction agent operable to monitor, dynamically select and fetch information relating to an item from the repository based on user request and at least one predetermined factor and the information

relating to sub-items, the sub-items representing at least one of a depth information and a breadth information relating to the item.

Kiger discloses the limitation of the information relating to sub-items, the sub-items representing at least one of a depth information and a breadth information relating to the item as the technique of paper reports the results of an experiment investigating human performance and preference trade-offs that accompany systematic manipulation of the breadth and depth of tree structures in a menu-driven information retrieval system (see page 201, introduction, lines 3-6) and see Figs. 2-6 and 4-3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Kiger teaching of breadth and depth information of hierarchical tree structure in a menu-driven graphical user interface into that of Herz invention. By doing so, the system would be enhanced by providing an intuitive tool of visually and graphically captured information in a graphical based tree structure user interface to its end user, thus the system would providing an intuitive tool to an end user.

Kiger, however, does not disclose the limitation of an extraction agent operable to monitor, dynamically select and fetch information relating to an item from the repository based on user request and at least one predetermined factor.

Bodnar discloses the limitation of an extraction agent operable to monitor, dynamically select and fetch information from the repository based on user request and at least one predetermined factor, as the **Smart Assistance** (see col. 34, lines 1-12) including the device 100 is used in tandem with a desktop computer PC. The desktop

PC is used by the user when "at the office" and the portable computer device 100 is employed when the user is "on the road" (see col. 11, lines 10-13) and the module selector 200 presents the user with selection icons for navigating to different applications or modules of functionalities (see col. 11, lines 6-8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Roth teaching of a prioritization agent operable to determine a priority of presentation of the information into that of Bodnar teaching of monitor and fetch information from the repository as directed by a user in term of home-based PC and road portable device into that of Herz-Kiger combined invention. By doing so, the system would be enhanced by automatic ranking priority of information based on recency and frequency information and forwarded those information to an end user right away.

As per claim 16, Herz discloses the invention substantially as claimed above. Herz, however, does not disclose the limitation of wherein the repository resides on a different device than the storage medium.

Bodnar discloses the limitation of wherein the repository resides on a different device than the storage medium as the technique of large repositories of data reside on the desktop PC which are periodically transferred or synchronized with data residing on the portable computer device 100 (see col. 11, lines 14-18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of wherein the repository resides on a

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different device than the storage medium into that of Herz invention. By doing so, the system would be enhanced by allowing data information synchronously transferred from repository storage of home-based device to user interface device's storage quickly.

As per claim 17, Herz discloses the invention substantially as claimed above. Herz, however, does not disclose the limitation of wherein the repository resides on the same device as the storage medium.

Bodnar discloses the limitation wherein the repository resides on the same device as the storage medium as the technique of portable computing device or information appliance 100 comprises a central processing unit 105 connected via a system bus 140 to a display 101, an input 102, ports 103, and memory 110 (see col. 10, lines 34-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of wherein the repository resides on the same device as the storage medium into that of Herz's invention. By doing so, the system would be enhanced by quickly retrieving information and forwarded information to its own system in case of lost signal to external communication.

As per claim 18, Herz discloses the invention substantially as claimed above. Herz, however, does not disclose the limitation of wherein the storage medium resides on the same device as the user interface.

Bodnar discloses the limitation of wherein the storage medium resides on the same device as the user interface as the technique of portable computing device or information appliance 100 comprises a central processing unit 105 connected via a system bus 140 to a display 101, an input 102, ports 103, and memory 110 (see col. 10, lines 34-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of wherein the storage medium resides on the same device as the user interface into that of Herz's invention. By doing so, the system would be enhanced by quickly retrieving information and forwarded information to its own system in case of lost signal to external communication.

As per claim 19, Herz discloses the invention substantially as claimed above. Herz, however, does not disclose the limitation of wherein the storage medium resides on a different device than the user interface.

Bodnar discloses the limitation of wherein the storage medium resides on a different device than the user interface as the technique of large repositories of data reside on the desktop PC which are periodically transferred or synchronized with data residing on the portable computer device 100 (see col. 11, lines 14-18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bodnar teaching of wherein the storage medium resides on a different device than the user interface into that of Herz's invention. By doing so,



the system would be enhanced by allowing data information synchronously transferred from repository storage of home-based device to user interface device quickly.

As per claim 20, due to the similarity of this claim to that of claim 14, this claim is therefore rejected for the same reasons applied to claim 14.

6. Claims 8 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (USPN: 6,460,036) in view of John I. Kiger, THE DEPTH/BREADTH TRADE-OFF IN THE DESIGN OF MENU-DRIVEN USER INTERFACES, hereinafter Kiger and further in view of Bates et al. (USPN: 5,390,295) hereinafter Bates.

As per claims 8 (method) and 29 (article including readable instruction), Herz-Kiger disclose the invention substantially as claimed above. Herz-Kiger, however, do not disclose the limitation of removing the items added as the result of the user interface activity occurs after a fixed time.

Bates discloses the limitation of removing the items added as the result of the user interface activity occurs after a fixed time as the technique of timer 32 keeps track of the value of the current system timer (see col. 6, lines 14-15), wherein this data is used to check for a situation where a window is in focus for a long period of time but there is no activity coming from a user and to automatically suspend the window timing function when a specified inactivity timeout period has elapsed (see col. 6, lines 22-27).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Bates teaching of removing the items added as the result

of the user interface activity occurs after a fixed time into that of Herz-Kiger combined invention. By doing so, the system would be enhanced by providing a monitor tracking tool for removing and suspend window when there is no activity from a user for long period of time, thus the system would save space estate for other output information to an end user.

7. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (USPN: 6,460,036) and Kiger further in view of Bodnar et al. (USPN: 6,310,634) hereinafter Bodnar and further in view of Raman (USPN: 5,748,186).

As per claim 21, Sullivan-Kiger-Bodnar discloses the invention substantially as claimed above. Sullivan-Kiger-Bodnar, however, do not disclose the limitation of wherein the interface is an audio interface.

Raman discloses the limitation of wherein the interface is an audio interface as Audio interface 141 (see Fig.1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Raman's teaching of the user interface is an audio interface into that of Sullivan-Kiger-Bodnar combined invention. By doing so, the system would be enhanced by providing an audio interface to its end user.

As per claim 22, Sullivan-Kiger Bodnar disclose the invention substantially as claimed above. Sullivan-Kiger-Bodnar, however, do not disclose the limitation of wherein the interface is a visual interface.

Raman discloses the limitation of wherein the interface is a visual interface as Visual interface 142 (see Fig.1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Raman's teaching of the user interface is a visual interface into that of Sullivan-Kiger-Bodnar combined invention. By doing so, the system would be enhanced by providing visual interface to its end user.

As per claim 23, Sullivan-Kiger-Bodnar discloses the invention substantially as claimed above. Sullivan-Kiger-Bodnar, however, do not disclose the limitation of wherein the interface is multi-modal.

Raman discloses the limitation of wherein the interface is multi-modal as the technique of a presenter 140 can convert the common intermediate structure 200 into multi-modal presentation as directed by the user (see col. 3, lines 8-11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Raman's multi-modal interface into that of Sullivan-Kiger-Bodnar combined invention. By doing so, the system would be enhanced by providing multi interfaces to an end user wherein the end user can decided which interface which he desired to work on.

#### **(10) Response to Argument**

From page 4 of the Appeal Brief, from the third paragraph, the Appellant argues that "the Examiner inappropriately combined Herz and Kiger" because

“[t]hese references are in non-analogous areas of art, which would not suggest a combination”.

In response to applicant's argument that Kiger is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, the examiner respectfully contends that Hertz teaches a system in which a user is profiled to determine their interests, and display the target objects which relate to these interests (see column 5, lines 30-38), these target objects retrieved based one of several means of grouping strategies including: organized so that users can actively navigate among groups of articles by moving from one group to a larger, more general group, to a smaller, more specific group, or to a closely related group in the hierarchy (see column 7, lines 27-48 and figure 7). *Depth information*, as is taught in Kiger (see page 201, paragraph 2), is information found above or below an item in a hierarchy, which relates to the “moving from one group to a larger, more general group [or] to a smaller, more specific group”, as taught by Herz. *Breadth information*, as is taught in Kiger (see page 201, paragraph 2), is information found at the same level in the hierarchy as the item, which relates to the “closely related group in the hierarchy”, as taught in Herz. Kiger teaches the use of Depth and Breadth in

design of menu and tree structures in user interfaces (see page 201, paragraph 2), which is clearly analogous to the design of menus and hierarchies based on information found above or below an item in a hierarchy, and other closely related items, of Herz (see column 5, lines 35-36 and column 7, lines 28-38).

From page 5 of the Appeal Brief, from the second paragraph, the Appellant argues that "There is no motivation to combined Herz and Kiger" because "the fact that Herz does not incorporate such a feature from Kiger suggests that it would not have been obvious for one of ordinary skill in the art to do so, i.e., facts teach away from such combination".

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Herz reference does such elements as depth and breadth information, only not using the same word as can be seen through Herz's use of grouping strategies including: organized so that users can actively navigate among groups of articles by moving from one group to a larger, more general group, to a smaller, more specific group, or to a closely related group in the hierarchy (see column 7, lines 27-48 and figure 7).

From page 6 of the Appeal Brief, from the second paragraph, the Appellant argues that “Herz and Kiger cannot be combined in the manner suggested by the examiner” because Kiger’s “menu driven information retrieval system” does not “remotely resemble “menus” within graphical user interfaces as understood by those of ordinary skill in the art”.

The examiner respectfully contends that Kiger teaches “the role of depth and breadth of menus and tree structures in user interfaces for information-retrieval” (see page 201, paragraph 1). Herz’s teaches the use of grouping strategies including: organized so that users can actively navigate among groups of articles by moving from one group to a larger, more general group, to a smaller, more specific group, or to a closely related group in the hierarchy (see column 7, lines 27-48 and figure 7).

From page 6 of the Appeal Brief, from the third paragraph, the Appellant argues that “the combination of these references is improper because it appears to be based on hindsight and is a mere articulation of a desirable result without any showing whatsoever that the combination of the reference is enabled and/or may properly be combined.”

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

**Claims 1, 15, and 24:**

With respect to the arguments directed at the group of claims including Claims 1, 15, and 24 the Appellant's arguments are focused on the limitations regarding automatically retrieving sub-items based on depth and breadth information. More specifically, as stated from representative Claim 1, the limitation argued is:

*"automatically retrieving sub-items from a storage medium, the sub-items representing at least one of a depth information and a breadth information relating to the item, the sub-items dynamically selected based on at least one predetermined factor."*

Since the interpretation of the limitation is the basis for the arguments, the Examiner's interpretation is now given. The claim, as interpreted by the examiner, pertains to automatically retrieving related items based on items related by being of a depth (more specific group, broader group) or breadth (a closely related group). As stated in the eighth paragraph of MPEP 2101[R2].II.C.,

*"Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023,1027-28 (Fed. Cir. 1997)."*

Based on the interpretation of the claim limitations being argued, the Examiner will now explain how the teachings of the Herz and Kiger references are within the scope of these limitations.

Herz discloses a method of presenting catered information to the user as the technique of present list to user (see block 1104 IN Fig. 10), the method comprising:

Identifying in a graphical user interface an item to be presented to the user is taught by Herz as the technique of an on-line news interface features (see col. 62, lines 43-44 and see Fig. 10 for delivers article to user);

Automatically retrieving sub-items from a storage medium (see figure 2), the sub-items selected dynamically based on at least one predetermined factor are taught by Herz as the techniques of **target objects are stored at one or more locations in a data communication network on data storage media** (see figure 2) associated with a computer system. The computed similarity measurement server which function to **enable human users to locate desired target objects** using a large computer system (see col. 8, lines 58-64) where it automatically selecting **article of interest to a user** (see col. 79, lines 46-47); these target objects retrieved based one of several means of grouping strategies including: organized so that users can actively navigate among



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groups of articles by moving from one group to a larger, more general group (**depth related**), to a smaller, more specific group (**depth related**), or to a closely related group (**breadth related**) in the hierarchy (see column 7, lines 27-48 and figure 7). Building an interface within the graphical user interface from the sub-items, presenting the interface to the user, and recording user interface activity in storage medium are taught by Herz as the techniques of automatically create a “customized newspaper” interface features (see col. 62, lines 40-47), presentation of new articles and corresponding advertisements which are of highest interest to the user (see col. 62, lines 55-56), and pieces of information are termed attributes collectively to form a profile of the target objects or a target profile. For example, where the system for customized electronic identification of desirable objects is activated to identify selection of interest, a particular category of on-line products for review or purchase by the user, it can be appreciated that there are certain unique sets of attributes which are pertinent to the particular product category of choice (see col. 9 line 65 to col. 10 line 6). Herz further teaches the storing of both target objects (which can include people and their properties) and user profiles, in a storage medium (see column 6, lines 9-12 and column 18, lines 25-27).

Herz, however, does not disclose the limitation of sub-items representing at least one of a depth information and a breadth information relating to the item. Kiger discloses the limitation of sub-items representing at least one of a depth information and a breadth information relating to the item as the technique of paper reports the results of an experiment investigating human performance and preference trade-offs that accompany systematic manipulation of the breadth and depth of tree structures in a

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menu-driven information retrieval system (see page 201, introduction, lines 3-6 and see Figs. 2-6 and 4-3), similar to the grouping methods of Herz.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Kiger teaching of breadth and depth information of hierarchical tree structure in a menu-driven graphical user interface into that of Herz invention, as Herz does essentially the same function without naming the navigation as Depth or Breadth related information. By doing so, the system would be enhanced by providing an intuitive tool of visually and graphically captured information in a graphical based tree structure user interface to its end user, thus the system would providing an intuitive tool to an end user.

The examiner will now address the individual arguments and statements made by Appellant.

From page 7 of the Appeal Brief, from the second paragraph, the Appellant argues that "The Examiner failed to meet the burden of establishing a prima facie case of unpatentability" "Specifically, Herz does not show a key aspect of the claimed invention, namely the element of "automatically retrieving sub-items from a storage medium, the sub-items representing at least one of a depth information and a breadth information relating to the item, the sub-items dynamically selected based on at least one predetermined factor".

The examiner respectfully contends that Herz teaches automatically retrieving sub-items from a storage medium, the sub-items selected dynamically based on at least one predetermined factor are taught by Herz as the techniques of **target objects are stored at one or more locations in a data communication network on data storage media** associated with a computer system. The computed similarity measurement server which function **to enable human users to locate desired target objects** using a large computer system (see col. 8, lines 58-64) where it automatically selecting **article of interest to a user** (see col. 79, lines 46-47); these target objects retrieved based one of several means of grouping strategies including: organized so that users can actively navigate among groups of articles by moving from one group to a larger, more general group (**depth related**), to a smaller, more specific group (**depth related**), or to a closely related group (**breadth related**) in the hierarchy (see column 7, lines 27-48 and figure 7). Kiger supplements this reference by spelling out what Depth and Breadth related items are, in an analogous means to that of Herz.

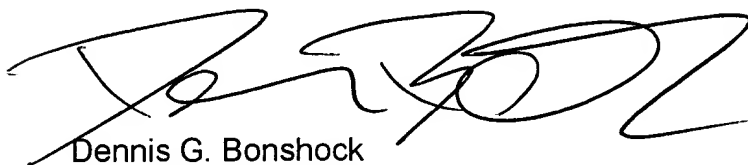
#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

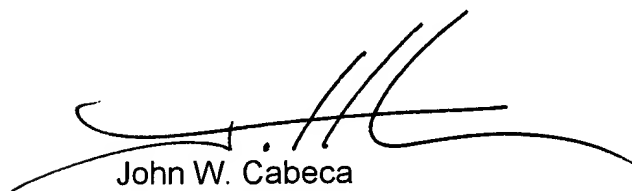
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Conferees:



Dennis G. Bonshock  
~~September 26, 2005~~



John W. Cabeca  
Supervisory Patent Examiner  
~~September 26, 2005~~ 01/06/06



Kristine Kincaid  
Supervisory Patent Examiner  
~~September 26, 2005~~